

AMENDMENTS TO THE DRAWINGS

Please replace the sheet of drawings with the Replacement Sheet submitted herewith.

Remarks**I. SUMMARY**

Claims 1-4 are pending in the present application. Claim 1 was rejected, and claims 2-4 are new. New claims 2-4 are added herein to further claim aspects of the invention. These new claims are believed to be supported by the specification, drawings, and claim 1 as originally filed. New claim 2 is supported *e.g.*, by paragraphs [0012] - [0014] and [0017] of the specification and by original claim 1. New claims 3 and 4 are supported *e.g.*, by paragraph [0012].

The drawings and title have been objected to.

II. OBJECTION TO THE TITLE

The title was objected to as purportedly not being descriptive. While Applicant does not agree with this assessment, the title is amended herein to further describe the protective device for drink cans. In particular, the title is amended to recite "PROTECTIVE DEVICE FOR DRINK CANS, ENSURING CLEANLINESS OF THE UPPER BASE OF CANS."

As indicated in the specification, cans are exposed to dust, dirt, and other possible contaminants during *e.g.*, storage. The present protective devices prevent such contamination on an outer surface of the can. For example, the devices may be used to protect a top surface of a drink can, such that the surface remains clean and is clean when a person's lips make contact with the can to consume the liquid.

It is believed that both the old title and the new title describe the present invention. Accordingly, withdrawal of the objection is hereby requested.

III. OBJECTION TO THE DRAWINGS

The drawings stand objected to because Fig. 1 included two views. A Replacement Sheet of drawings is submitted herewith to obviate this objection. In particular, in the Replacement Sheet, the two views set forth in FIG. 1 are now separated into Fig. 1A and Fig. 1B. The Brief Description of the Drawings is amended herein, consistent with the Replacement Sheet of drawings.

In view of the Replacement Sheet, Applicant respectfully requests withdrawal of the objection.

IV. REJECTION UNDER 35 U.S.C. §112, second paragraph

Claim 1 was rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite with respect to the meaning of what is intended by “consists in”, and “advantageously.”

Applicant amends claim 1 herein for clarity and better conformance with U.S. practice. Claim 1 as amended does not include the rejected terms. Applicant notes that the present amendments to Claim 1 do not narrow the scope of the claim. In view of the present amendments, Applicant respectfully requests withdrawal of the rejection.

V. REJECTION UNDER 35 U.S.C. §103

Claim 1 was rejected under 35 U.S.C. §103 as allegedly being obvious over Gaeta (US 5,341,948) in view of Chang (U.S. 6,702,179). Applicant respectfully traverses this rejection and requests the withdrawal thereof.

Gaeta is cited as purportedly disclosing a protective device having radial notches, but is silent with respect to slots. Chang is cited as purportedly teaching that it is known to provide a protective device with slots concentric with the edges of the disk for engaging with a container base. The Action indicates that it would have been obvious to add curvilinear slots concentric with the edges of the disk of Gaeta. Applicant respectfully disagrees with this conclusion, because the references are completely unrelated to one another and because it would be contrary to the purpose of Gaeta to add any slots or cuts to its seals.

Gaeta discloses a tamper evident seal (heat or adhesive sealed) to be factory-applied on a bottle or a jar containing a consumer product (such as an instant coffee container). The Gaeta product is intended to indicate to the consumer any possible tampering with the container or its contents, its purpose is not to provide any protection from contamination on an outer surface of a container, rather it is sealed over an opening in the container and a cap is placed over the seal. In contrast to the product of Gaeta, the present invention is a product that is adapted such that it may be applied by a user over the upper base of a can, thus, preventing it from dirt or other

contaminants being deposited on the can, while the can is in storage before consumption of the can contents.

The peripheral notches in Gaeta merely serve to initiate tearing of the sealing material. Whereas in the present invention, the notches along with cuts, define peripheral areas of the thin body that can be arranged by flexion below an upper rim of a body of a can, thus allowing the device to be applied to and removed from the can by a consumer. As noted in the Action, the Gaeta product does not include any slots or cuts, and therefore also does not include any peripheral areas to be arranged below an upper rim of a body of a can. There is no reason for any such areas or for such a configuration in Gaeta's seal, because it is heat sealed or adhesively attached directly to the container.

Because no cuts are included in the Gaeta product, the Examiner cites the Chang reference for such a teaching. Chang is directed to a paperboard box intended to contain a consumer product and is directed to a completely different purpose than Gaeta, and to a completely different purpose than the present invention. Thus, there is no motivation to combine the references generally. But even if one were to add cuts to the Gaeta product, **such cuts would render the Gaeta product unsuitable for its intended purpose.** The purpose for having cuts in the present device is to allow the device to be easily applied to and removed from a container base. This is completely contrary to the teachings of Gaeta, which provides a "tamper evident" heat or adhesive sealed liner (see first paragraph in Col. 1), which tears upon removal or opening of the seal. If there are any cuts or tears in the Gaeta seal, they would allow one to tamper with the contents of the jar or bottle, or they are an indication that the seal has been tampered with. Either way the purpose of the Gaeta seal is destroyed if it has any tears or cuts.

For at least the above reasons, Applicant respectfully submits that the present claims are not obvious in view of the cited art. Accordingly, Applicant requests reconsideration and withdrawal of the rejection.

VI. CONCLUSION

Applicant submits that the present claims are in condition for allowance, and therefore respectfully requests withdrawal of each rejection and allowance of the present application.

It is believed that no extensions of time are required with this paper. If, however, any extensions are deemed necessary to prevent abandonment of this application, then extensions of time are hereby petitioned for under 37 C.F.R. §1.136(a), and any fees required, including fees for net addition of claims, are hereby authorized to be charged to account number 50-3120.

Should the Examiner believe that discussion of any remaining issues would advance the prosecution, she is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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